

Manzanita Tribe of Kumeyaay Indians

Solid Waste Disposal Ordinance

Be it enacted by the Tribal Council of the Manzanita Band of Mission Indians as follows:

Section 1. Purpose. The Manzanita Band of Mission Indians (hereinafter, “Manzanita Band”) is a federally recognized Indian tribe. As such, the Manzanita Band is a sovereign entity with jurisdiction over the natural resources located within the exterior boundaries of the Manzanita Indian Reservation. The disposal of solid wastes within the Reservation is an issue affecting the health, welfare and safety of residents of the Reservation and members of the Manzanita Band.

Section 2. Effective Date. This ordinance shall be effective fifteen (15) days after passage by the Tribal Council of the Manzanita Band (editorial comment: fifteen is an arbitrary number used several times in this ordinance. A different number may be substituted, the purpose being to provide sufficient notice of the new rules).

Section 3. Definitions.

- (a) The term “solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows.
- (b) The term “hazardous waste” means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may-
 - (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
 - (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (c) The term “disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any air, land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
- (d) The term “person” means an individual, trust, firm, joint stock company, corporation, partnership, association, state, tribe, municipality, commission, political subdivision of a state, or any interstate body and shall include each department, agency, and instrumentality of the United States.

Section 4. Rubbish Dumps.

- (a) Existing, unregulated rubbish dumps may no longer be utilized (pursuant to requirements of the federal Solid Waste Disposal Act as amended by the Resources Conservation and Recovery Act and applicable federal regulations). By adoption of this ordinance, the Manzanita Band has determined to cease to allow the disposal of solid waste in existing rubbish dumps within the Manzanita Indian Reservation or on any other location within the Reservation, and to arrange for the provision of an alternative solid waste management service applicable to all residents of the Reservation.
- (b) This section shall be held applicable to existing, unregulated rubbish dumps located within the exterior boundaries of the Manzanita Indian Reservation, irrespective of whether such dumps are located on tribal land, assignment land, allotments, fee parcels, or any other type of land holding.

Section 5. Prohibitions.

- (a) No person shall dispose, release, discharge, or conduct open dumping or open burning of any solid waste on the Manzanita Indian Reservation except as provided in this ordinance.
- (b) No person shall generate, store, transfer, transport, treat, discharge, release or dispose of a hazardous waste through the conduct of any business on the Manzanita Indian Reservation, except as permitted under the Resource Conservation and Recovery Act and/or this ordinance.
- (c) No operator, owner, agent, or employee of any business, industry or facility within the exterior boundaries of the Manzanita Indian Reservation shall dispose, or cause to be disposed, any solid waste in the waste receptacles of any other business, industry, facility or residential premises.

Section 6. Mandatory participation. All residents, business owners and operators, and other individuals within the exterior boundaries of the Manzanita Indian Reservation shall participate in the Manzanita Solid Waste Disposal/Source Separation/Recycling Program.

Section 7. Service rules.

- (a) All residents and business owners and operators within the exterior boundaries of the Manzanita Indian Reservation shall comply with the rules and regulations of the Manzanita Solid Waste Disposal/Source Separation/Recycling Program.
- (b) The Manzanita Tribal Council may create and enact such regulations as are necessary for the safe and sanitary collection, handling and disposal of solid wastes within the Reservation. Any regulations enacted under this provision shall be disseminated in writing to all tribal members no less than fifteen (15) days before taking effect and shall at that time be attached as appendices to this ordinance.
- (c) All residents and business owners and operators within the exterior boundaries of the Manzanita Indian Reservation are encouraged, and may be required, to implement source separation to segregate solid waste streams to allow for recycling. If such activities are

required, appropriate containers will be provided to enhance and control the source separation.

Editorial comment: this would be a good place to add specific requirements, such as trash pickup, a central dumpster, or whatever.

Section 8. Domestic fees.

- (a) A standard household fee for solid waste disposal may be set by the Manzanita Tribal Council and may be raised or reduced periodically by the Council to cover the cost of disposal or of compliance with applicable laws and regulations. The standard household fee shall apply to all residents of the Manzanita Indian Reservation, and the Council shall not reduce fees to any person or household because that person or household may produce less solid waste than any other person or household. Residents of the Reservation who fail to make full and timely payments shall be subject to penalties (i.e. forfeit of per capita until penalty is paid in full) pursuant to this ordinance.
- (b) The Tribal Council shall disseminate a fee schedule (method of dissemination could be stated here) no less than fifteen (15) days prior to the beginning of the first billing period for fees established under this section.

Section 9. Business and Industrial fees. The Manzanita Tribal Council may set a different fee for businesses or industries, or a schedule of fees based upon size or actual or anticipated solid waste production of businesses or industries.

Section 10. Trespass. Any person entering the Manzanita Indian Reservation for the purpose of dumping or disposing of solid waste, or who dumps or disposes of solid waste on the Reservation in violation of this ordinance shall be guilty of trespass. The Manzanita Tribal Council may initiate a hearing upon such violations and may impose a penalty of \$25 to \$25,000 depending on the severity of the infraction for each violation as well as costs to clean up, abate, remove and mitigate the environmental impacts of the solid waste and to restore the Reservation to the condition in which it existed immediately prior to the violation. The Council may sue for damages for trespass and any other applicable common law or statutory cause of action in any court of competent jurisdiction.

Section 11. Discovery. Any person who finds or witnesses solid waste disposal on the Reservation in violation of this ordinance shall immediately notify tribal officials of said disposal and shall fully disclose all known information regarding the disposal.

Section 12. Penalties. Violations of any provision of this ordinance, and of any regulations enacted pursuant to it, shall be deemed a public nuisance and may be prosecuted by the Manzanita Tribal Council in any court of competent jurisdiction. A fine as indicated in Section 10 plus the cost to clean up, abate, remove and mitigate the environmental impacts of the solid waste and to restore the Reservation to the condition in which it existed immediately prior to the violation may be imposed for each violation. In addition, failure or refusal to pay fees imposed by the Manzanita Solid Waste Disposal Program shall require imposition of penalties for companies doing business

on the Reservation, who will also be subject to utility disconnection pursuant to the provisions of this ordinance.

Section 13. Severability. If any term, provision, paragraph or condition of this ordinance, or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this ordinance or the application of the term, provision or condition to other parties or circumstances shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.